Headquarters U. S. Air Force

Integrity - Service - Excellence

PRIVACY ACT
5 USC 552a

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PURPOSE AND BACKGROUND

- Eliminate illegal surveillance and potential abuse
- Govt collection and use directly affects our privacy
- Increased use of computers may cause harm
- Misuse of information endangers our rights

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RESPONSIBILITIES and RIGHTS

- Provide access and amendment rights and appellate review
- Obtain information directly from subject
- Safeguard records
- Keep timely and accurate records
- Publish notices (no secret records)

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REFERENCES

- Title 5, United States Code, Section 552a
- OMB Circular A-130, Management of Federal Information Resources
- DOD Directive 5400.11, 13 Dec 99
- DOD Regulation 5400.11, Aug 83
- AFI 33-332, 29 Jan 2004

RESOURCES

- **Defense Privacy Office Web Page (http://www.defenselink.mil/privacy)**
  - **Defense Privacy Board Advisory Opinions**
  - **Air Force Compilation of Privacy Act System Notices**
- **A Manager's Overview - What You Need to Know About the Privacy Act (http://www.foia.af.mil)**

TERMS

- System of Records
- System Notice
- System Manager
- Agency
- Routine Use
- Disclosure
- Access
- Individual

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SYSTEM OF RECORDS

- **A group of records under the control of a DoD Component from which personal information is retrieved by the individual's name or by some identifying number, symbol, or other identifying particular assigned to an individual.**

EXAMPLES

- Locator system
- Medical record system
- Idea system
- Defense Travel System
- Government wide notices
  - EEO
  - OPM

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SYSTEM NOTICE

- **A blueprint of the records we maintain on individuals**
- **The official public notice published in the Federal Register of the existence and content of the record system**

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SYSTEM MANAGER

- **The official who is responsible for managing the system of records, including policies and procedures to operate and safeguard it**

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ROUTINE USE

- A disclosure of records in a system to individuals, agencies, or activities, outside DoD, for a use that is compatible with the system's purpose
- Blanket routine uses

AGENCY

- **When used for Privacy purposes, the agency is “DoD”**

DISCLOSURE

- **Providing information from a system, by any means, to anyone other than the subject of the record (example: giving out someone's home phone and address over the telephone)**

ACCESS

- **Allowing the subject of the record to review or receive copies of their records.**

INDIVIDUAL

- **A living US citizen or permanent resident alien**

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SYSTEM MANAGER RESPONSIBILITIES

- Manage and safeguard records
- Train users
- Protect records from alteration and destruction
- Review and update notices annually
- Answer requests
- Keep accounting of disclosures

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SYSTEM DEVELOPMENT

- **If you're developing a system containing personal information**
  - **Coordinate with your Privacy and legal offices in the beginning**
  - **Insure there's an approved system in place before you implement or test the system**

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CONTENTS OF A SYSTEM NOTICE

- Number
- Name
- Location
- Individuals
- Records
- Authority
- Purpose
- Storage
- Retrievability
- Safeguards
- Retention and disposal
- System manager
- Notification procedure
- Record Access procedure
- Contesting record procedure
- Record source
- Exemption

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COLLECTING PERSONAL INFORMATION

- File in approved system
- Have compatible purpose
- Collect from the subject
- Provide Privacy Act Statement
- No First Amendment Information

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PRIVACY ACT STATEMENTS (PAS)

- **Required when collecting:**
  - **information from subject going into system of records**
  - **SSN from subject**
- **Format**
  - **Authority**
  - **Purpose**
  - **Routine Use**
  - **Disclosure Voluntary or Mandatory and consequences**
- **Unique for each collection**

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DISCLOSING INFORMATION

- **Use the "Golden Rule"--** *Get consent!*
- **Without consent**
  - **Only for specific exceptions**
  - **Disclosure accounting**
- **When in doubt, don't give it out!**

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RELEASABLE INFORMATION

- Name
- Grade/Rank
- AFSC
- Position Title
- Duty Address (CONUS only)
- Duty Phone/Bldg # (CONUS only)
- Civilian gross salary
- Military base pay and special pay
- DOR
- Entered on active duty (EAD) date
- Pay date
- Source of commission
- PME

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RELEASABLE INFORMATION (CONTINUED)

- Promotion sequence #
- Military awards/decs
- Duty status
- Bios and photos of key personnel

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PRIVACY ACT PROTECTED INFORMATION

- SSN
- Home phone and address
- Date of birth/Age
- Race
- Marital status
- Number/names and sex of dependents
- BAQ/VHA
- Civilian degree, major, school and year of graduation
- Educational level
- Overseas, sensitive and routinely deployable duty assignments
- Leave balances/time and attendance info

SOCIAL ROSTERS

- **Get Consent statements**
  - **Language should not be coercive**
  - **Make consequences clear**
  - **No blanket or open-ended consent statements**
  - **At a minimum, state purpose, and recipients**

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12 EXCEPTIONS TO "CONSENT" RULE

- Need to know within the agency
- Required to be released under FOIA
- Routine Use
- Census Bureau
- Statistical Research
- National Archives
- Law Enforcement
- Health or Safety
- Congress
- GAO
- Court Order
- Consumer Reporting Agency

DISCLOSURE ACCOUNTING

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- Required for all disclosures except
  - need to know
  - FOIA
- Provide to subject on request
- May use AF Form 771

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DISCLOSURE ACCOUNTING FORMAT

- Date of release
- Information/records released
- Reason
- Recipient's name and address
- Exceptions
  - Exempt systems
  - Law enforcement

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PROCESSING REQUESTS

- From subject or representative
- Cite or imply the Privacy Act
- Reasonably describe records
- Process as FOIA or PA?
  - Provide maximum access
- Respond within 10/20 workdays
- Provide access within 30 workdays

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VERIFYING IDENTITY

- In Person
  - ID
  - Driver's license
- Other
  - Full name, date and/or place of birth
  - Notarized statements or declarations
  - Have alternative methods to SSN

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SAMPLE DECLARATION

- **"I declare under penalty of perjury that the foregoing is true and correct. Executed on (date)."(signature)**

FEES

- No search charges
- Charge for reproduced pages only
- Provide first 100 pages free
- Waive costs of $15 or less

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DENYING REQUESTS

- Approved exemption to system notice
- Legal review
- Appeal rights
- Signed by IDA
- Statement of Disagreement after final appellate decision

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PRIVACY EXEMPTIONS GENERAL

- (j)(1) CIA
- (j)(2) Maintained by agency whose principal function is criminal law enforcement
- Exempts system from most parts of Privacy Act

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PRIVACY EXEMPTIONS SPECIFIC

- (k)(1) Classified
- (k)(2) Investigatory material compiled for law enforcement
- (k)(3) Protective services to the President
- (k)(4) Required by statute for use as statistical records only
- (k)(5) Investigatory material for determining suitability for employment
- (k)(6) Testing material
- (k)(7) Evaluation material used for promotion

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SAFEGUARDING PERSONAL INFORMATION

- **Before disclosing:**
  - **Consider sensitivity**
  - **Consider audience**
- **Mark records**
- **Add warning statements to databases and disks**
- **Destroy before placing in recycle containers**
- **Caution:**
  - **Intranet/public drives**
  - **New PC and moving files**
- **Protect information**
  - **Use cover sheets**
  - **Handcarry records**
  - **Use plain sealed envelopes**
  - **Place out of sight**
  - **Use screen savers**

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USING THE FAX

- Consider
  - sensitivity of information
  - location of equipment
  - equipment manned
- Call first
- Use cover sheet

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PRIVACY AND THE WEB

- **Public Web Sites: No personal information**
- **.Mil Private Web Sites: No personal information unless authorized by local commander, for official purposes, and an appropriate risk assessment is performed.**

PENALTIES

- **Civil Actions - An individual may file a civil suit against the agency or employee(s)**
- **Civil Remedies - Payment of damages, court costs and attorney fees**
- **Criminal Penalties - An individual may be found guilty of a misdemeanor and fined not more than $5,000 for knowingly and willfully**
  - **Maintaining an illegal system**
  - **Disclosing personal information to anyone not entitled to receive it**
  - **Obtaining someone else's records under false pretenses**